



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2021–N189; FXES111602C0000–212–FF02ENEH00]

Enhancement of Survival Permit; Agricultural Candidate Conservation Agreement with Assurances (CCAA) for Lesser Prairie Chicken in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of an application to amend the Oklahoma Department of Wildlife Conservation's enhancement of survival permit and the associated *Agricultural Candidate Conservation Agreement with Assurances (CCAA) for Lesser Prairie Chickens* (LEPC) in Oklahoma. The application package includes the proposed amendment to the CCAA and a draft screening form pursuant to the National Environmental Policy Act of 1969 (NEPA).

DATES: *Submission of comments:* We will accept comments received or postmarked on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining documents:* You may obtain copies of the EOS application, proposed CCAA amendment, draft NEPA screening form, or other related documents on the internet at <https://www.fws.gov/southwest/es/oklahoma>.

Submitting comments: You may submit written comments by email to OKES_NEPA@fws.gov. Please note that your comment is in reference to the above-referenced CCAA. For more information, see **Public Availability of Comments**.

FOR FURTHER INFORMATION CONTACT: Mr. John Hendrix, Acting Field Supervisor, Oklahoma Ecological Services Field Office, Tulsa, OK; telephone 918–581–

7458. Individuals who are hearing or speech impaired may call the Federal Relay Service at 800–877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION: This notice advises the public that the Oklahoma Department of Wildlife Conservation (ODWC) has applied to the Service to amend their existing enhancement of survival (EOS) permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the associated *Agricultural Candidate Conservation Agreement with Assurances (CCAA) for Lesser Prairie Chickens* in Oklahoma. The permit application includes the CCAA amendment and the draft screening form supporting a categorical exclusion in accordance with the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We are making the permit application package available for public review and comment.

Background

Under a CCAA, the participants voluntarily undertake management activities on their properties to enhance, restore, or maintain habitat benefiting species that are proposed for listing under the ESA, candidates for listing, or species that may become candidates or proposed for listing. Enhancement of survival permits are issued to the applicants in association with approved CCAAs to authorize incidental take of the covered species from conservation measures and ongoing activities on the enrolled lands that are identified in the CCAA. Through the CCAA and the associated EOS permit, the Service provides assurances to enrolled property owners that they will not be subjected to increased land use restrictions if the covered species become listed under the ESA in the future, provided certain conditions are met.

Application requirements and issuance criteria for EOS permits for CCAAs are found in the Code of Regulations (CFR) at 50 CFR 17.22(d)(2)(ii) and 17.32(d)(2)(ii), for

species that may become listed as endangered and threatened under the ESA, respectively. See also the joint policy on CCAAs, which was published in the *Federal Register* with the Department of Commerce's National Oceanic and Atmospheric Administration, National Marine Fisheries Service (80 FR 95164; December 27, 2016).

Proposed Action

The existing permitted CCAA is authorized for 25 years and covers agricultural activities in Alfalfa, Beaver, Beckham, Cimarron, Custer, Dewey, Ellis, Harper, Major, Roger Mills, Texas, Washita, Woods, and Woodward Counties, in Oklahoma. This area constitutes the CCAA's planning area, with covered areas being non-Federal lands within the planning area that provide suitable habitat for LEPC, or have the potential to provide suitable LEPC habitat with the implementation of appropriate conservation management practices. The ODWC has applied for an amendment to the CCAA to increase the conservation benefit of the CCAA for LEPC in Oklahoma by increasing enrollment from the current maximum of 400,000 acres to 1,000,000 acres by 2037, throughout the 14 Oklahoma counties described in the CCAA. This would more than double the conservation program currently being implemented on agricultural lands within the planning range of the LEPC under the current EOS permit held by ODWC. This CCAA contributes to a larger conservation effort for the LEPC across its range within Colorado, Kansas, New Mexico, Oklahoma and Texas.

Pursuant to the CCAA, ODWC will enroll participating landowners through issuance of certificates of inclusion. Participating landowners who are fully implementing the CCAA provisions of the EOS permit will be provided assurances that, should the LEPC become listed, the Service will not require them to provide additional land, water, or financial resources, nor will there be any further restrictions to their land,

water, or financial resources than those they committed to under the CCAA provisions. Furthermore, if the LEPC is listed, participating landowners would be provided incidental take authorization for LEPC under the EOS permit for the level of incidental take on the enrolled lands consistent with the activities under the CCAA provisions. This amendment would potentially increase the amount of the incidental take authorization proportionately with the increasing of the enrolled conservation acres.

Next Steps

We will evaluate the permit application, proposed amendment, draft NEPA screening form, and comments we receive to determine whether the EOS application meets the requirements of ESA, NEPA, and implementing regulations. If we determine that all requirements are met, we will approve the amendment and issue the amended EOS under section 10(a)(1)(A) of the ESA to the applicant in accordance with the terms of the amended CCAA and specific terms and conditions of the authorizing EOS. We will not make our final decision until after the 30-day comment period ends, and we have fully considered all comments received during the public comment period.

Public Availability of Comments

All comments we receive become part of the public record associated with this action. Requests for copies of comments will be handled in accordance with the Freedom of Information Act, NEPA, and Service and Department of the Interior policies and procedures. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All

submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under the authority of section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Amy Lueders,
Regional Director, Southwest Region,
U.S. Fish and Wildlife Service.

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